

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
CHRISTOPHER PAGAN, *on behalf of himself* :
and all others similarly situated, :
:
Plaintiff, : 24-CV-104 (VSB)
:
-against- : **ORDER**
:
LUCCELLO, INC., *d/b/a ItsHot.com*, :
:
Defendant. :
:
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VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action on January 5, 2024, (Doc. 1), and filed an affidavit of service on February 13, 2024, (Doc. 6). The deadline for Defendant to respond to Plaintiff's complaint was February 13, 2024. (*See Doc. 6.*) On February 20, 2024, I directed Plaintiff to seek default judgment by no later than February 26, 2024. (Doc. 7.) I warned, "If Plaintiff fails to do so or otherwise demonstrate that he intends to prosecute this litigation, I may dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b)." (*Id.*) To date, Defendant has not appeared or responded to the complaint. Plaintiff, however, has not sought default judgment or taken any action to prosecute this case.

Accordingly, Plaintiff's claims are dismissed without prejudice pursuant to Rule 41(b).

The Clerk of Court is respectfully directed to terminate this action.

SO ORDERED.

Dated: February 29, 2024
New York, New York



VERNON S. BRODERICK
United States District Judge